IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITOIN NO.886 OF 2003

Shri.Vitthal Kondiram Mallav ..Petitioner

Vs.

Sau.Archana alias Anita
Vitthal Mallav & Ors. ..Respondents

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Mr.M.A.Uttgikar Advocate for Petitioner
Mr.Rahul S.Kate for Respondent No.1
Mr.M.M.Deshmukh A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.

DATE : JULY 31,2006

P.C.

1. Heard the learned counsel for the petitioner and learned counsel for the Respondents Nos.1 and 2 i.e. wife and children of the petitioner.

2. Petitioner has impugned the order dated 18.10.2002 passed by the learned VIth Additional Sessions Judge, Solapur. By the said order, the learned Sessions Judge enhanced the maintenance granted to the respondent no.2 by Rs.300/-. The trial Court had awarded maintenance of Rs.600/- to

Respondent No.1 i.e. wife and Rs.600/- to Respondent No.2 i.e. child of the Petitioner and Respondent No.1. These amounts of maintenance were awarded by order dated 10.5.2002. Respondents Nos.1 and 2 being aggrieved by the quantum of maintenance granted to them, had preferred revision application being Revision Application No.174 of 2002 before the learned VIth Additional Sessions Judge, Solapur. The learned Addl.Sessions Judge held that as far as amount of maintenance granted to the wife-Respondent No.1, it does not call for interference. However, maintenance granted to the minor girl, was enhanced from Rs.600/- to Rs.900/- per month. Being aggrieved by the said order, the petitioner-husband has preferred the present writ petition.

3. The petitioner has challenged the enhancement of the maintenance amount of Rs.600/- to Rs.900/- to Respondent No.2 i.e. his minor child. At the time of filing of revision application, the petitioner-husband did not challenge the finding recorded by Additional Sessions Judge on the point of neglect and refusal. It is also not in dispute

that the wife and the child are unable to maintain themselves. The only grievance is in respect of enhancement of the amount of maintenance to the child by Rs.300/-.

4. The petitioner is serving as a teacher and drawing salary of Rs.7313/-.. However, it is the case of the petitioner that there is deduction of Rs.3500/- per month as recovery of loan from his salary. Hence, after all the necessary deductions, only meagre amount of Rs.1885/- is being received by the petitioner. It is submitted that out of this amount of Rs.1885/-, it is difficult for the petitioner to pay maintenance of Rs.1800/-. It is true that salary certificate Exhibit-8 shows that Rs.3500/- is deducted towards the payment of society loan. However, the petitioner has not explained as to for what cause, the petitioner took the loan. It is quite possible that in order to avoid liability to pay maintenance, the said loan amount is taken from the society. Moreover, 7x12 extracts which are at Exhibits 51, 53 and 57 show that ancestral agricultural land is irrigated by river water as it stands on the bank of river Sina.

The said land is standing in the name of father of the petitioner. Nothing is brought on record that relations between the petitioner and his father are strained. In such circumstances, an inference can be drawn that the petitioner gets assistance from agricultural income also.

5. It is further pertinent to note that as far as Respondent No.2 minor child is concerned, the said child is handicapped. Even till the disposal of the revision application, when the child was four and half years of age, the child was not able to sit and stand. In this view of the matter, it is clear that child requires additional medical expenses. Looking to the fact that child is handicapped, it will not be possible to maintain him in the meagre amount of Rs.600/- per month. Looking to the salary of the petitioner and the fact that he gets financial support from his parents from agricultural income, the enhancement of amount of maintenance by Rs.300/- per month cannot be said to be unreasonable. In my view, no interference is called for. Hence, writ petition is rejected.

[V.K.TAHILRAMANI,J.]